

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kara Hughes	Team: Team # 4	CCRB Case #: 200306732	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/25/2003 , Wednesday, 07/02/2003 , Friday, 08/22/2003 10:50 PM	Location of Incident: 2295 Morris Avenue, the Bronx	Precinct: 46	18 Mo. SOL 2/22/2005	EO SOL 2/22/2005	
Date/Time CV Reported Wed, 08/27/2003 1:16 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/02/2003 12:01 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Walter Wasilewski	01358	891200	046 PCT
2. CPT Paul Deentremont	00000	892944	046 PCT
3. LT Paul McMahon	00000	899574	046 PCT
4. POM Vincent Zerafa	18945	926340	046 PCT
5. POM Matthew Reid	18397	925973	046 PCT
6. Officers			046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Christop Watson	05544	899981	046 PCT
2. POM Nelson Collazo	09490	924834	046 PCT
3. POM Victor Adams	05861	924867	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Paul McMahon	Abuse: Lieutenant Paul McMahon stopped and questioned § 87(2)(b)	
B.LT Paul McMahon	Abuse: Lieutenant Paul McMahon searched § 87(2)(b)	
C.CPT Paul Deentremont	Abuse: Captain Paul Deentremont supervised the strip-search of § 87(2)(b) at 2295 Morris Avenue.	
D.CPT Paul Deentremont	Force: Captain Paul Deentremont used physical force against § 87(2)(b)	
E.LT Paul McMahon	Force: Lieutenant Paul McMahon used physical force against § 87(2)(b)	
F.POM Walter Wasilewski	Force: Police Officer Walter Wasilewski used physical force against § 87(2)(b)	
G.POM Vincent Zerafa	Force: PO Vincent Zerafa used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
H.POM Matthew Reid	Force: Police Officer Matthew Reid used physical force against § 87(2)(b)	
I. Officers	Abuse: Officers threatened § 87(2)(b) with the use of force.	
J. Officers	Off. Language: Officers made remarks to § 87(2)(b) based upon race.	

Synopsis

On August 22, 2003, § 87(2)(b) and § 87(2)(b) were arrested on narcotics charges inside of 2295 Morris Avenue in the Bronx by a 46th Precinct team consisting of Capt. Paul DeEntremont, Lt. Paul McMahon and PO Walter Wasilewski. § 87(2)(b) and § 87(2)(b) were arrested without incident; § 87(2)(b) resisted arrest and was involved in a struggle with the three aforementioned officers, who later received assistance from Sgt. Christopher Watson and Officers Vincent Zerafa, Matthew Reid, Victor Adams and Nelson Collazo. This complaint was generated by a 911-telephone-call placed by a member of the crowd gathered in front of 2295 Morris Avenue who stated that members of the NYPD were “beating on a male” (*identified by* § 87(2)(b)). When IAB responded to the location a second witness alleged that § 87(2)(b)s “ass [had been] checked” by officers.

Victim § 87(2)(b) was interviewed by the CCRB and made the following allegations: he was improperly stopped and questioned (*allegation a*); improperly searched (*allegation b*); strip-searched while inside the lobby of 2295 Morris Avenue (*allegation c*); the victim of excessive force (*allegations d-h*); threatened with the use of physical force (*allegation i*) and the target of racially offensive comments (*allegation j*).

Six officers were interviewed regarding this incident; § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) a member of the crowd gathered in front of 2295 Morris Avenue, initiated this complaint when he called 911 to report that a male [later identified as § 87(2)(b)] was being removed from the building in handcuffs. Documents obtained from the NYPD’s Communications Division document § 87(2)(b)s observation: “police officers at location [are] beating on a male” (*enc. 13b*). § 87(2)(b)s 911 call generated an IAB complaint: when IAB officers arrived at 2295 Morris Avenue they spoke with witness § 87(2)(b) who alleged that § 87(2)(b)s “ass [had been] checked.” § 87(2)(b)s force allegation was referred to the CCRB, where it was received on September 2, 2003; § 87(2)(b)s improper strip-search allegation was referred to the Office of Chief of Department. No statement was obtained from victim § 87(2)(b) on the date of his arrest.

Though § 87(2)(b) scheduled two separate CCRB interviews, he failed to appear for these interviews. Efforts to contact § 87(2)(b) have been unsuccessful. After victim § 87(2)(b) was identified, he provided the CCRB with a statement on October 28, 2003.

Victim statement – § 87(2)(b)

§ 87(2)(b) was arrested inside of 2295 Morris Avenue on August 22, 2003 at approximately 10:00 PM. He was present at the location attempting to visit a friend § 87(2)(b) floor who was not home. As he was leaving the building, PO Walter Wasilewski “grabbed” § 87(2)(b) by his left arm and lead him up the foyer steps of the building (*see diagram enc. 12b and photographs enc. 12c-e for reference*). At the time of incident § 87(2)(b) knew PO Wasilewski because the officer had arrested him on § 87(2)(b) 2003 and had stopped and questioned him numerous (additional) times since. Based on these encounters, it was § 87(2)(b)'s belief that PO Wasilewski also knew who he was (on the date of incident). PO Wasilewski was working with Lt. Paul McMahon, whom § 87(2)(b) also knew (by name and by face) as the lieutenant and PO Wasilewski are “always” partners and were working together during § 87(2)(b)'s § 87(2)(b) 2003 arrest. On the date of incident, PO Wasilewski and Lt. McMahon were working with a third officer described as a White male approximately 5’10” with dark hair and identified [by investigation] as Capt. Paul DeEntremont.

§ 87(2)(b) stood at the top of the foyer steps with PO Wasilewski; Lt. McMahon was standing on the landing with them and Capt. DeEntremont stood below in the entrance to 2295 Morris Avenue. § 87(2)(b) asked PO Wasilewski (by name) why he was being stopped; PO Wasilewski responded, “just shut up kid” and indicated that § 87(2)(b)'s cooperation would allow him to “go right home.” PO Wasilewski then searched § 87(2)(b) by emptying his pockets, pulling up his shirt and having him remove his shoes. PO Wasilewski also pulled § 87(2)(b)'s shorts and boxer shorts away from his body and shone his flashlight against § 87(2)(b) looking down both the front and back of his shorts. After this PO Wasilewski requested that § 87(2)(b) squat; § 87(2)(b) complied and squatted two to three times while asking the officers why they were stopping him. PO Wasilewski then told him to put his shoes back on; no contraband was found on § 87(2)(b)'s person.

Capt. DeEntremont told PO Wasilewski to “bring § 87(2)(b) back” further into the lobby of the building (*see diagram enc. X and photograph #2 enc. X for reference*) where were two male civilians who were being arrested § 87(2)(b) and § 87(2)(b). There were between four and five uniformed male officers in the lobby during this time. § 87(2)(b) did not know the circumstances by which any of these individuals came to be in the lobby. Both § 87(2)(b) and § 87(2)(b) were handcuffed and leaning against a wall of the lobby; neither was speaking. Based on later conversation, § 87(2)(b) learned from § 87(2)(b) and § 87(2)(b) that neither was asked to remove any items of his clothing while at 2295 Morris Avenue. Both prisoners remained standing alongside the lobby mailboxes as § 87(2)(b)'s interaction with officers continued.

At PO Wasilewski's request, § 87(2)(b) placed his hands on the far wall of the lobby wall; PO Wasilewski then searched him for a second time by reaching into his pockets. PO Wasilewski asked § 87(2)(b) to remove his shoes, his shorts, remove his boxers, and stand with his palms against the wall (he kept his T-shirt on). After § 87(2)(b) removed his clothing, PO Wasilewski requested that he squat; PO Wasilewski stood approximately one and a half feet behind § 87(2)(b) shining his flashlight onto § 87(2)(b)'s buttocks. § 87(2)(b) recalled, “then I come back up (*from squatting*) and one of the officers hit me on the lower back, almost at the belt-line, on the right side,” which caused him to fall forward. While he could not see the object, § 87(2)(b) believed that he was struck with either a fist or a flashlight.

§ 87(2)(b) lay on the ground; he held his body in a tight ball as “at least three or four” officers kicked him. At this time either Capt. DeEntremont or Lt. McMahon shouted, “I told you ‘don’t fuck with me.’ I’m gonna beat your ass.” § 87(2)(b) stated that he was “just laying on the floor while [the officers] were stomping on [his] ankles and trying to grab [his] arms to handcuff [him].” § 87(2)(b) held his arms to his body as unidentified officers yelled, “I told you, monkey!” When § 87(2)(b) felt that his ankle might break because officers were “stomping” on it, he brought his arms away from his body and allowed the officers to handcuff him. He stated that two unidentified first floor tenants had opened their doors to observe the manner in which he was handcuffed: the tenants shut their doors at the officers’ direction.

An officer (possibly Lt. McMahon) helped § 87(2)(b) to his feet and PO Wasilewski put on § 87(2)(b)'s boxer and denim shorts. § 87(2)(b)'s face was “bleeding,” and both his face and his ankle felt swollen. Lt. McMahon then “dragged” § 87(2)(b) out of the building by holding his

handcuffed hands “over his head.” There was a crowd that had gathered outside of the location; two marked police vans and one white unmarked van were parked on Morris Avenue. Once § 87(2)(b) was lodged in the white van, he asked an unidentified officer to retrieve his glasses and one of his boots from inside of the building (as they had been dislodged during the struggle). After the officer returned with the items, § 87(2)(b) was transported to the 46th Precinct stationhouse. He estimated that his interaction with officers inside of 2295 Morris Avenue elapsed over twenty minutes.

At the stationhouse, Lt. McMahon and PO Wasilewski strip-searched § 87(2)(b) in a private area located behind the holding cells. After the strip-search, § 87(2)(b) was lodged in a holding cell. After asking multiple officers for medical attention, EMS was “eventually” brought to the location and treated § 87(2)(b) by providing him with an ice pack for his right ankle. He estimated that he arrived at the precinct at approximately 10:30 PM and did not receive medical attention until 4:00 AM. § 87(2)(b) was taken to Central Booking on August 23, 2003; bail was set and § 87(2)(b) was taken to Rikers Island. At Rikers, § 87(2)(b) spoke with numerous doctors concerning the injury he sustained to his ankle; he also spoke with a psychiatrist.

Results of Investigation

A number of individuals and officers have been identified as possible witnesses to the manner in which § 87(2)(b)'s arrest was effected. § 87(2)(g) no civilian provided the CCRB with a statement regarding the nature of § 87(2)(b)'s arrest. Six NYPD officers have been interviewed regarding this incident. Notably, because PO Walter Wasilewski retired from the NYPD during the course of this investigation, he was not available to be interviewed.

Identification of and attempts to contact possible civilian witnesses:

Two civilian statements have been made regarding this incident, though both only provide limited insight. According to the documents obtained by the NYPD's Communications Division, on August 22, 2003 at 10:34 PM, § 87(2)(b) called 911 to report “police officers at location [were] beating on a male” (*enc. 13a*). Once IAB was present at 2295 Morris Avenue, witness § 87(2)(b) was briefly interviewed. Documents received from IAB indicate that § 87(2)(b) stated that § 87(2)(b) was “walking out of the building when unidentified officers pushed him back in the lobby and started checking his ass then put him on his knees and started kicking and stomping him” (*see IAB report, enc. 10a-b*). § 87(2)(b) estimated that approximately twelve NYPD officers were present at the location.

Though 911-caller § 87(2)(b) scheduled two separate CCRB interviews, he failed to cooperate with this investigation (*see investigative actions, enc. 30a-b*). Letters sent to the only known address for a § 87(2)(b) in the Bronx have yielded no reply during the course of this thirteen-month investigation. On October 30, 2003, a canvass conducted at 2295 Morris Avenue yielded negative results for potential witnesses. Letters left in residents' mailboxes did not prompt any witnesses to contact the CCRB. Subsequent letters sent to residents written in Spanish were also unsuccessful and did not prompt any witness accounts.

Attempts were also made to contact and interview the two males who were arrested with § 87(2)(b). On October 30, 2003, a visit to the home of then § 87(2)(b) year old § 87(2)(b) resulted in a family member prohibiting the undersigned from having any contact with § 87(2)(b) by shutting the front door of the home once the CCRB's business thereat was explained. Subsequent telephone calls placed and letters sent to the residence have yielded no reply. On both October 30, 2003 and June 22, 2004 the mother of now § 87(2)(b) year old § 87(2)(b) has denied the undersigned any contact with her son; telephone calls placed to § 87(2)(b) have been intercepted by his mother, who adamantly refuses to allow her son to participate in this investigation.

Officer identification and relevant police documentation:

§ 87(2)(b) was able to provide the name of his arresting officer, PO Walter Wasilewski, and the name of PO Wasilewski's partner, “McMahon” (*Lieutenant Paul McMahon*) based on his previous experience with both officers whom, he stated, “are always working together.” Between documents

provided by the NYPD's Communications Division, and records supplied by the 46th Precinct, the following officers were also identified as having been present at the location: Capt. Paul DeEntremont – Tracer Sergeant Christopher Watson – who was working alongside Officers Vincent Zerafa and Matthew Reid – and Officers Victor Adams and Nelson Collazo, who served as sector “G” backup at the location (*enc. 26a-e, 27t-aa*). A total of six officers have been interviewed regarding this incident. Again, PO Wasilewski was not interviewed due to his retirement from the NYPD.

Police Officer Walter Wasilewski – (subject officer):

Though PO Wasilewski was not interviewed by the CCRB regarding this incident due to his retirement from the NYPD, he did provide a narrative regarding § 87(2)(b)'s arrest. PO Wasilewski's statement on § 87(2)(b)'s arrest report reads as follows: “at time and place of occurrence, said Deft § 87(2)(b) did exchange an amount of alleged crack/cocaine (one bag) for [United States Currency] to another apprehended Deft § 87(2)(b). This Deft was in possession of an additional 8 bags of alleged crack/cocaine and 3 glassines of alleged heroin” (*enc. 27d*).

Lieutenant Paul McMahon – (subject officer):

Lt. McMahon estimated that he has had “maybe three or four” interactions with § 87(2)(b) including arrests made by the lieutenant's partner, PO Wasilewski, on both January 25, 2003 and August 22, 2003. Lt. McMahon stated that both he and PO Wasilewski “were on familiar terms” with § 87(2)(b) on the date of incident.

On August 22, 2003, Lt. McMahon was working in plainclothes alongside PO Wasilewski; he could not recall whether Capt. DeEntremont was working with them as well. They were conducting “routine patrol” within the confines of the 46th Precinct and operating an unmarked black Chevrolet Blazer. While Lt. McMahon's memo book indicates that he and PO Wasilewski were operating a brown Chevrolet Impala (*auto 563*), the lieutenant stated that the entry was incorrect. Lt. McMahon specifically recalled that the Blazer was a “loner car (*on loan*) – not a steady 46 [Precinct] car.” Lt. McMahon stated that he and PO Wasilewski were seated in the Blazer, which was parked directly outside of 2295 Morris Avenue, when they observed § 87(2)(b) and § 87(2)(b) involved in a hand-to-hand narcotics transaction (*note: Lt. McMahon had no recollection that a third male, identified as § 87(2)(b) was arrested at the location*). § 87(2)(b) and § 87(2)(b)'s transaction was completed on the foyer steps of the building; additional civilians were standing in the immediate vicinity, but did not obstruct Lt. McMahon's view of the transaction (*see photographs of the location, enc. 12c-d*). After brief conversation, Lt. McMahon and PO Wasilewski exited their vehicle and entered the building: no calls requesting backup were made.

Lt. McMahon walked beyond § 87(2)(b) and approached § 87(2)(b) who was standing in the lobby of the building. “Near the [lobby] mailboxes” Lt. McMahon apprehended (but did not handcuff) § 87(2)(b) after § 87(2)(b) threw “something (*illegal*)” to the ground. Lt. McMahon then searched § 87(2)(b). From his vantage-point near the mailboxes, Lt. McMahon observed PO Wasilewski's interaction with § 87(2)(b) at the landing of the foyer stairs. He described that the “confrontation between [PO Wasilewski] and § 87(2)(b) [was] going very badly... § 87(2)(b) [was] not being compliant and [PO Wasilewski] is having to struggle with him.” § 87(2)(b) was shouting “you can't just run up in here and grab me!” as PO Wasilewski was “pushing him up against the wall.” PO Wasilewski then shouted, “he's trying to stuff it!” which Lt. McMahon explained to mean that § 87(2)(b) was attempting to insert narcotics into his buttocks. Lt. McMahon handcuffed § 87(2)(b) and requested that he drop to his knees and stay near the mailboxes; the lieutenant then approached § 87(2)(b) to assist PO Wasilewski.

At this time PO Wasilewski and § 87(2)(b) were involved in a “full-blown struggle” approximately six-to-eight feet from the mailboxes. Lt. McMahon recalled, § 87(2)(b) is swinging, punching, kicking, everything” as PO Wasilewski attempted to “hold [and] subdue” him. Lt. McMahon attempted to “take control of what § 87(2)(b) was doing by throwing punches.” The lieutenant estimated that he made contact with “either § 87(2)(b)'s ribs or his groin” between two and three times. § 87(2)(b) continued to reach his hands in the back of his pants and fight with the officers. At some point in time, additional officers arrived at the location, providing physical assistance in handcuffing § 87(2)(b). Sgt. Watson and Officers Zerafa and Reid were at the location, as was Capt. DeEntremont (Lt. McMahon later learned that the officers arrived after observing their unmarked police vehicle in front of the location).

The struggle with § 87(2)(b) continued after the backup officers arrived: it started in the foyer hallway (see Lt. McMahon's notation of where § 87(2)(b) was positioned when backup arrived, *enc. 18h*) and continued into the lobby. Lt. McMahon recalled, "We went down to the ground and came up to our feet several times – myself, PO Wasilewski and § 87(2)(b).... We would get tired – things would calm down – he wouldn't say anything and as soon as we'd release any pressure from him, he'd go right into it again (*fighting*).” Officers' Zerafa and Reid provided physical assistance in attempting to handcuff § 87(2)(b) while Sgt. Watson secured the front entrance of 2295 Morris Avenue (per Lt. McMahon's order). The lieutenant could not recall Capt. DeEntremont's activity during this time. Lt. McMahon did not observe any officer kicking § 87(2)(b) or striking him with a flashlight. § 87(2)(b) was positioned chest-down on the ground when he was eventually handcuffed; the struggle lasted between three and five minutes. While crack (cocaine) or heroin was recovered at the location, Lt. McMahon could not recall the circumstance through which the recovery was made.

Lt. McMahon "held" § 87(2)(b) to the ground by holding § 87(2)(b)'s arm and/or leg while PO Wasilewski conducted a "field frisk" (*the lieutenant later called this a "field search"*) for weapons. Lt. McMahon stated, "in my view...when [PO Wasilewski] said 'he's trying to stuff it' the other standard thing these guys do we call 'cheeking it' – they keep their product in the crack of their rear end. When the people come in, they take out the little plastic bag and they take out whatever [*sic*] in it and they hit it off (*sell it*) and then they put it (*the narcotics*) back in there (*their buttocks*)...I don't know if § 87(2)(b) was successful in getting it into that area or not but...I know that his boxers were up but his pants were kind of between his waist and his knees. When you say 'where'd he search' – we search anywhere that something (*illegal*) could be hidden, as far as his clothing goes." Lt. McMahon stated that PO Wasilewski "absolutely did not" lower § 87(2)(b)'s pants or § 87(2)(b)'s boxers. Lt. McMahon denied that all of § 87(2)(b)'s clothing was removed (void his T-shirt) and that § 87(2)(b) was made to stand against a wall, eventually squatting. After the conclusion of the field search, § 87(2)(b) was brought to his feet and escorted from the building. The lieutenant recalled § 87(2)(b) yelling "they're beating me!" during this time; no officer called § 87(2)(b) a "monkey." He could not recall who escorted § 87(2)(b) to a vehicle for transport and could likewise not recall which officers escorted § 87(2)(b) (or § 87(2)(b)).

At the stationhouse, Lt. McMahon and PO Wasilewski conducted a strip-search of § 87(2)(b) in the bathroom of the 46th Precinct stationhouse (located near the holding cells).¹ Lt. McMahon did not recall § 87(2)(b) asserting that he was injured or requesting medical attention, but did recall him asserting that he was "going to sue us all (*the NYPD*).” Though the command log does not note that EMS responded to the location, Lt. McMahon stated his belief that § 87(2)(b) did receive "some form of medical attention" while at the stationhouse. Lt. McMahon did not know the circumstances that prompted the five-hour delay in transporting § 87(2)(b) to Central Booking (as § 87(2)(b) and § 87(2)(b) were taken to Central Booking at 4:45 AM and § 87(2)(b) at 9:30 AM).

Captain Paul DeEntremont – (subject officer):

On August 22, 2003 Capt. Paul DeEntremont was active between the hours of 11:00 PM and 7:00 AM. He was the Bronx Duty Captain, was in uniform and working (alone) out of a black Chevy Impala. Capt. DeEntremont stated that prior to August 22, 2003, he had had no prior interaction with § 87(2)(b). During this incident, Lt. McMahon and PO Wasilewski told Capt. DeEntremont that they had arrested § 87(2)(b) before, on narcotics charges.

Capt. DeEntremont stated that he was on "routine patrol when [he] observed an unmarked RMP in the vicinity of 2295 Morris Avenue (no description of the vehicle could be provided). "Believing that there were [46th Precinct] officers inside of the building," Capt. DeEntremont entered the building. Lt. McMahon and Officers Wasilewski and Zerafa were inside of the building; he could not recall either Sgt. Watson or PO Reid being present at the location. Capt. DeEntremont stated that the three officers were effecting the arrests of three males. At the time he entered the building, "everyone...[was] back behind the mailboxes" (see *diagram enc. 12b* and *photograph #2 enc. 12d*). Two prisoners § 87(2)(b) and § 87(2)(b) were handcuffed and standing on the left-side of the lobby; the third prisoner § 87(2)(b) was standing "against the wall" in the "back right" of the lobby.

¹ Lt. McMahon stated that while there is no notation of § 87(2)(b) having been strip-searched in the 46th Precinct Command log, the search occurred. He further stated that, despite the fact that there is no notation to reflect as such, § 87(2)(b) and § 87(2)(b) were "probably" both strip-searched. He acknowledged that such an omission is in violation of the NYPD Patrol Guide (Procedure 208-05 – *enc. 3a-b*).

Capt. DeEntremont recalled, “PO Wasilewski and § 87(2)(b) [were] engaged in a bit of a struggle [while] PO Wasilewski attempt[ed] to handcuff § 87(2)(b). Specifically, PO Wasilewski was “holding” § 87(2)(b)’s hands and eventually his waist as § 87(2)(b) attempted to “break free.” At this time, Capt. DeEntremont stated that he relieved Lt. McMahon and PO Zerafa by “taking possession” of § 87(2)(b) and § 87(2)(b) this allowed the officers to “go over to assist PO Wasilewski in handcuffing § 87(2)(b).” Capt. DeEntremont remained alongside the mailboxes with the prisoners as he observed § 87(2)(b) struggle with PO Wasilewski, Lt. McMahon and PO Zerafa. During this time § 87(2)(b) stood up and was “put on the ground” multiple times. After such struggle continued for approximately two minutes, Capt. DeEntremont left § 87(2)(b) and § 87(2)(b) “(handcuffed and) essentially unattended” and physically assisted in handcuffing § 87(2)(b). He recalled, “at the point where I come over, § 87(2)(b) is on the ground. I grab one of his legs – I don’t recall which one – in an attempt to keep him on the ground. He is handcuffed at that point, shortly after me going over there.” Capt. DeEntremont did not hit or strike § 87(2)(b) (with a flashlight or his feet or fists) and did not observe any officers making such contact with § 87(2)(b).

Capt. DeEntremont stated that a strip-search was “absolutely not” conducted (in his presence) inside of 2295 Morris Avenue. Capt. DeEntremont did acknowledge that during the struggle with § 87(2)(b) (during the time that the captain was physically dealing with § 87(2)(b)), § 87(2)(b)’s pants were positioned lower than his waist. He recalled that § 87(2)(b)’s “pants came down to the lower thigh area at one point in the struggle” exposing his boxer shorts. Capt. DeEntremont clarified that the pants were not intentionally pulled down and stated that § 87(2)(b)’s boxer shorts were not pulled down or removed. § 87(2)(b)’s pants were positioned at thigh-level both when he was standing and when he was on the ground. The captain did not recall § 87(2)(b)’s pants falling any further down his leg than mid-thigh level.

Capt. DeEntremont did not observe any form of frisk or search being conducted of § 87(2)(b) at the arrest location. Capt. DeEntremont recalled that contraband (narcotics) was recovered “from the ground”; he could not provide a more specific description of where the narcotics were recovered, nor could he recall which officer located the contraband. Capt. DeEntremont stated that the backup units that arrived at the location remained outside, controlling the “loud” crowd that had gathered in the vicinity of 2295 Morris Avenue. Capt. DeEntremont did not recall authorizing the strip-search of § 87(2)(b) at the stationhouse and was unaware whether such a strip-search was performed. At the stationhouse, either Lt. McMahon or PO Wasilewski told Capt. DeEntremont, § 87(2)(b) was under arrest for sale (of narcotics)” and that § 87(2)(b) and § 87(2)(b) purchased narcotics from him. Capt. DeEntremont did not observe any physical injury on § 87(2)(b)’s person. He stated, “I don’t recall him complaining of injuries, but I do know that an ambulance was called to the 46th Precinct and he was seen by medical personnel.” Capt. DeEntremont did not know the nature of the injuries for which § 87(2)(b) received medical treatment.

Capt. DeEntremont stated that he received a phone call regarding a complaint that had been filed about this incident while he was en route from 2295 Morris Avenue to the 46th Precinct’s stationhouse. Based on the call, Capt. DeEntremont phoned IAB and briefed them on “what [he] knew about the incident.”

Sergeant Christopher Watson – (witness officer):

Between 8:00 PM and 5:12 AM on the date of incident, Sgt. Watson was the 46th Precinct Tracer sergeant: he was unable to recall the names of his partners. He was in uniform and assigned to an unmarked white van. According to his memo book, Sgt. Watson was present at 2295 Morris Avenue at 10:40 PM: 46th Precinct Anti-Crime officers made three arrests at the location by 11:00 PM. Sgt. Watson resumed patrol by 11:15 PM. Sgt. Watson stated that his tracer unit was conducting “routine patrol” when he observed a gold Chevrolet Impala parked in front of 2295 Morris Avenue. The vehicle, one that is used by 46th Precinct anti-crime teams, was “parked in a precarious position [as it was] left in the middle of the road [and] looked like officers had made a quick exit.” Upon entering 2295 Morris Avenue, Sgt. Watson observed Lt. McMahon and PO Wasilewski with three subjects (civilians – identified as § 87(2)(b) and § 87(2)(b)). § 87(2)(b) and § 87(2)(b) were standing on the left side of the foyer, at the landing of the front entrance; neither man was handcuffed. Upon instinct (and not based on any command issued), Sgt. Watson secured § 87(2)(b) and § 87(2)(b) both men were “calm and compliant.” Sgt. Watson did not recall Capt. DeEntremont being at the location (at any point in time).

Sgt. Watson remained with the prisoners while § 87(2)(b) was “violently struggling” with Lt. McMahon, PO Wasilewski and “at least one” of Sgt. Watson’s partners. As the struggle continued, § 87(2)(b) and the officers moved further into the lobby of the building, eventually moving as far back as the area located underneath the stairs (*see photograph #3 enc. 12e*). At one point § 87(2)(b) attempted to punch one of the officers (*unknown which officer*); he was also “failing his arms and elbows.” Sgt. Watson, who stated that most of his attention was focused on the two prisoners, did not see § 87(2)(b) on the ground at any point during the struggle.

As the struggle continued, Lt. McMahon ordered Sgt. Watson to exit the building, requesting that he secure the building and maintain crowd control. An unidentified officer moved to secure § 87(2)(b) and § 87(2)(b) it was this officer who handcuffed the men. Once he was outside, Sgt. Watson stated that he could not see into 2295 Morris Avenue and was therefore unable to describe any of the activity that occurred within after he exited the building. Sgt. Watson stated that while he was inside of the building he did not observe § 87(2)(b) being strip-searched, did not see officers striking § 87(2)(b) with flashlights, and did not hear any officer call him a “monkey.” Sgt. Watson had no physical interaction with § 87(2)(b).

Sgt. Watson remained outside of the building for approximately two minutes; he estimated that the crowd in the area consisted of approximately fifteen-to-twenty individuals. Backup units arrived at the location and assisted him with crowd control; Sgt. Watson could not recall the names of these backup officers. Sgt. Watson’s tracer unit transported “at least one prisoner” to the 46th Precinct stationhouse; he had no interaction with any of the prisoners at the stationhouse. Sgt. Watson did not have any conversation with either Lt. McMahon or PO Wasilewski regarding the three arrests they effected at 2295 Morris Avenue, nor did he hear any prisoner allege that any misconduct had occurred.

Police Officer Vincent Zerafa – (subject officer):

PO Vincent Zerafa was familiar with § 87(2)(b) at the time of incident, as he had issued § 87(2)(b) a summons (citing his § 87(2)(b)) prior to August 22, 2003. PO Zerafa stated that he was unaware that Lt. McMahon and PO Wasilewski had also had previous dealings with § 87(2)(b).

On August 22, 2003 PO Zerafa began his tour working as an ATLAS officer alongside PO Matthew Reid; at 8:05 PM they joined Sgt. Watson and patrolled the 46th Precinct as a tracer unit (all of the officers were in uniform). According to PO Zerafa’s memo book, his tracer unit made a “pick up for a disorderly group” at 2295 Morris Avenue at 10:40 PM. Arrests were made at the location by 10:50 PM.

Acting as the operator of the van, PO Zerafa drove west on East 183rd Street when he observed “a disorderly group of five to six people” standing opposite 2295 Morris Avenue. At this time he also noted a 46th Precinct unmarked car (a Chevrolet Impala, dark in color) parked outside of the location. The tracer unit entered the building, which is among a stretch of “known drug locations...up and down 183rd Street, Creston [and] Morris Avenues.” Upon entering the building, PO Zerafa observed Capt. Paul DeEntremont, Lt. McMahon and PO Wasilewski – all in plainclothes – struggling with § 87(2)(b) mid-way through the foyer hallway. While he was unable to describe Capt. DeEntremont’s specific actions, PO Zerafa stated that both Lt. McMahon and PO Wasilewski were attempting to handcuff § 87(2)(b) who was resisting and positioned on the ground. There were also “one or two” additional prisoners inside the location at this time; PO Zerafa could not recall either prisoner’s activity throughout this incident.

PO Zerafa physically assisted in attempting to handcuff § 87(2)(b). PO Zerafa could not recall PO Reid’s activity at this time; Sgt. Watson was securing the front entrance and had no physical interaction with § 87(2)(b). § 87(2)(b) was “kicking” and “waiving his arms.” PO Zerafa was “on one knee – trying to put [his] knee to § 87(2)(b)’s legs” while attempting to “grab § 87(2)(b)’s right arm.” PO Zerafa stated that PO Wasilewski “might have” been holding § 87(2)(b)’s left arm. PO Zerafa denied restraining § 87(2)(b) with the use of his foot and likewise denied kicking or striking § 87(2)(b). PO Zerafa could not recall having observed any officers striking § 87(2)(b) (with their flashlights or otherwise). He estimated that it took between three and five minutes to handcuff § 87(2)(b). At no time was § 87(2)(b) called a “monkey.”

PO Zerafa stated that § 87(2)(b)’s pants (jeans) “could have been pulled down maybe [during the struggle].” He clarified that the pants were not purposefully “pulled down” and that he “did not see § 87(2)(b) naked or anything.” At no point was § 87(2)(b) strip-searched inside of 2295 Morris Avenue. Likewise, he was not asked to remove any articles of clothing nor was he made to squat. PO Zerafa was unable to recall what, if any, contraband was found at the location.

Prior to his escorting § 87(2)(b) to the tracer unit's van, PO Zerafa frisked § 87(2)(b) for weapons; no search was conducted at this time. PO Reid assisted PO Zerafa in escorting § 87(2)(b) to the van. While there were additional backup officers at the location, PO Zerafa could not recall which officers were present. § 87(2)(b) was "yelling" at the crowd: PO Zerafa could not recall the nature or gist of § 87(2)(b)'s comments. PO Zerafa did not observe any physical injury on § 87(2)(b)'s person and did not hear § 87(2)(b) complaining of having sustained any injury. PO Zerafa resumed patrol after transporting § 87(2)(b) to the 46th Precinct stationhouse.

Police Officer Matthew Reid – (subject officer):

PO Matthew Reid stated that on August 22, 2003, he was in uniform and working with PO Zerafa; PO Reid did not recall working with or alongside of Sgt. Watson. He had no entries in his memo book pertaining to his activity at 2295 Morris Avenue, but recalled that he and PO Zerafa entered the location after observing Lt. McMahon and PO Wasilewski walking quickly into 2295 Morris Avenue as if they were "chasing an individual." PO Reid could not recall any civilians standing in front of the building at this time. Upon walking up the foyer steps, PO Reid observed "one, maybe two prisoners" standing to the left of the foyer landing – "right inside, where you get to the door" (*see his mark on diagram, enc. 25d*). Lt. McMahon and PO Wasilewski were "having an all-out fight with an individual § 87(2)(b)." He stated that the "fight" took place in the middle of the lobby (*where "lobby" is written on the diagram*). PO Reid stated that he and PO Zerafa did not walk any further into the building than the beginning of the hallway (as marked on the diagram) as Lt. McMahon requested that they "secure the prisoners." This request was made "within seconds" of their having entered the building. PO Reid could not recall if either prisoner was handcuffed at this time.

PO Reid denied having had any physical interaction with § 87(2)(b). He denied observing his partner, PO Zerafa, having any physical interaction with § 87(2)(b). PO Reid described the fight that was taking place in the lobby as "violent," stating that "at first § 87(2)(b) was standing, and then upon getting him to the ground he was still resisting – kicking and swinging – so it did turn from standing to the ground." Both Lt. McMahon and PO Wasilewski were physically involved in the struggle. PO Reid stated that Capt. DeEntremont was standing "right alongside" the struggle (in the lobby) but stated that he did not observe Capt. DeEntremont have any physical interaction with § 87(2)(b). He did not see any officer striking § 87(2)(b) with a flashlight (nor did he strike § 87(2)(b)).

PO Reid did not see § 87(2)(b)'s pants or boxer-shorts removed; nor did he observe § 87(2)(b)'s pants being slid down or them falling down (during the struggle or otherwise). PO Reid stated that no strip-search occurred at the location. He did not call § 87(2)(b) a "monkey," nor did he hear another officer speak as such.

While PO Reid recalled escorting a prisoner out of the location, he could not recall which of the prisoners he walked out of the building. Once outside the building, PO Reid did not remember there being any form of a crowd that had gathered at/around 2295 Morris Avenue. He did not recall which, if any, officers arrived at the location as backup. He did not remember seeing either PO Collazo or PO Adams at the location. PO Reid could not recall the circumstances under which he left the location.

Police Officer Victor Adams – (witness officer):

On August 22, 2003, PO Victor Adams was in uniform and working with PO Nelson Collazo between the hours of 3:00 PM and 12:35 AM. They were assigned to an RMP (1909) and patrolled 46th Precinct sectors "D, G and H." PO Adams had no memo book entries pertaining to activity at 2295 Morris Avenue and he had no independent recollection of having been present at the location. After consulting NYPD Communications Division records, PO Adams confirmed that his sector ("G") provided an "unfounded" disposition for a job at 2295 Morris Avenue. Regarding the disposition he stated, "if we marked it 90Y we weren't there, or we got told to disregard whatever the case was...otherwise it wouldn't have been [that disposition]." As PO Adams did not recall having been present at 2295 Morris Avenue, and did not recall the specifics surrounding § 87(2)(b)'s arrest, PO Adams concluded that had he and PO Collazo been active at 2295 Morris Avenue, "more than likely it was in a support element."

§ 87(2)(b)'s criminal conviction history and the disposition of criminal charges resulting from his August 22, 2003 arrest:

§ 87(2)(b) §§ 86(1)(3)&(4) § 87(2)(c)

PO Wasilewski has arrested § 87(2)(b) twice. § 87(2)(b)

§ 87(2)(b) §§ 86(1)(3)&(4) § 87(2)(c)

On August 22, 2003, PO Wasilewski arrested § 87(2)(b) for 3rd degree criminal possession of a controlled substance with the intent to sell, both 3rd and 7th degree possession of a controlled substance and resisting arrest; § 87(2)(b) §§ 86(1)(3)&(4) § 87(2)(c) On both January 25, 2003 and August 22, 2003, PO Wasilewski was working with Lt. Paul McMahon. They effected January and August arrests within one geographic block of each other (*see roll calls (enc. 28f-m, 27t-aa), arrest reports (enc. 28b-c, 27d-f) and enclosed map, (enc. 12a)*).

Disposition of § 87(2)(b) and § 87(2)(b) criminal charges:

§ 87(2)(b) §§ 86(1)(3)&(4) § 87(2)(c)

Substantiated CCRB Histories of Captain Paul DeEntremont, Lieutenant Paul McMahon, Police Officer Vincent Zerafa and Police Officer Matthew Reid:

Captain Paul DeEntremont: With seventeen years as an NYPD officer, a total of four allegations have been substantiated against Capt. DeEntremont. Three excessive force allegation (for which he received charges in cases 9602715 and 200205782 respectively) and one discourtesy allegation (for which he received a command discipline in case 200203144) have been substantiated against Capt. DeEntremont.

Lieutenant Paul McMahon: With thirteen years as an NYPD officer, seven allegations have been substantiated against Lt. McMahon in reference to three separate CCRB investigations (numbered 9803717, 200003842 and 200205489 respectively). Lt. McMahon has received charges in reference to his use of excessive force, an improper strip-search, improper frisks and searches, an improper vehicle search § 87(4-b) § 87(2)(g)

Police Officer Vincent Zerafa and Police Officer Matthew Reid: Each with four years as NYPD officers, neither PO Zerafa nor PO Reid has ever been the subject of a CCRB investigation.

§ 87(2)(g)

Conclusions and Recommendations

This complaint was initiated citing two primary allegations of misconduct: that of excessive physical force and an improper strip-search. § 87(2)(g)

According to documents received from IAB, and from § 87(2)(b)'s CCRB statement, a number of civilians were identified as possible witnesses to this incident. None of these witnesses were successfully contacted and/or interviewed by the CCRB. Telephone calls were placed to the cellular phones of witness (and initial complainant) § 87(2)(b) and § 87(2)(b) § 87(2)(b) never appeared for his scheduled CCRB interviews and § 87(2)(b) did not contact the CCRB to arrange an interview. § 87(2)(g)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED] Lt. McMahon, Capt. DeEntremont and PO Zerafa admitted to having had physical interaction with § 87(2)(b) § 87(2)(g)

[REDACTED] Sgt. Watson, who is reported to have safeguarded the prisoners, stated that he was outside of the building effecting crowd control during the struggle. Similarly, PO Reid, who is reported to have helped subdue § 87(2)(b) stated that he was safeguarding the prisoners during § 87(2)(b)'s struggle. § 87(2)(g)

§ 87(2)(g)

[REDACTED] Lt. McMahon stated that he and PO Wasilewski observed a hand-to-hand narcotics transaction on the front stoop of the building; he further asserted that the civilians did not recognize him and his partner because they were in a black unmarked SUV not typically utilized by the 46th Precinct. Lt. McMahon stated that his memo book entry, which indicates that he was assigned to "Auto 563" (a brown Chevrolet Impala), was an error (*enc. 17b*). § 87(2)(g)

[REDACTED]

With regards to the order by which officers entered the location, Lt. McMahon stated that he and PO Wasilewski were the first two officers active at the location; they were later joined by Capt. DeEntremont, Sgt. Watson and Officers Zerafa and Reid who all "arrived pretty quickly." PO Zerafa and PO Reid each stated that Capt. DeEntremont was with Lt. McMahon and PO Wasilewski at the time of their arrival. § 87(2)(g)

§ 87(2)(g)

[REDACTED]

Allegation a: Lieutenant Paul McMahon stopped and questioned § 87(2)(b)

§ 87(2)(b) denied buying or selling narcotics while he was present inside of 2295 Morris Avenue. He stated that he was simply exiting 2295 Morris Avenue when PO Wasilewski "grabbed" his arm and escorted him up the foyer steps of the building. Lt. McMahon and Capt. DeEntremont then followed § 87(2)(b) and PO Wasilewski up the foyer stairs. § 87(2)(b) called PO Wasilewski by his last name, and asked why he was being stopped; PO Wasilewski told § 87(2)(b) "let us do what

we've got to do and you'll be going right home." Following this, and under the supervision of both Capt. DeEntremont and Lt. McMahon, PO Wasilewski searched § 87(2)(b) (as will be discussed at greater length below). Notably, this search not only included removing various items from § 87(2)(b)'s pockets, but also involved PO Wasilewski pulling § 87(2)(b)'s shorts away from his body while the officer shone a flashlight against § 87(2)(b)'s bare skin. During this time PO Wasilewski also requested (multiple times) that § 87(2)(b) squat. By § 87(2)(b)'s account it appears obvious that PO Wasilewski was conducting a search for narcotics.

Though Capt. DeEntremont is known to be present at the time when § 87(2)(b) was stopped when exiting 2295 Morris Avenue, he denied any involvement in conducting such a stop. Conversely, Lt. McMahon accepted responsibility for having conducted the stop. Though this investigation has determined that Capt. DeEntremont was acting as a supervisor at the location when § 87(2)(b) was stopped by officers, this allegation is being pleaded against Lt. McMahon based on the lieutenant's admitted involvement during the initial stages of the officers' interaction with § 87(2)(b).

According to the narrative PO Wasilewski prepared for § 87(2)(b)'s arrest report, the officers stopped § 87(2)(b) after observing his involvement in a narcotics transaction with § 87(2)(b). Capt. DeEntremont denied being present during the initial stages of this incident and therefore stated that he was unable to comment on the alleged transaction. Lt. McMahon provided the only CCRB statement that specifically addressed § 87(2)(b)'s alleged narcotics transaction (aside from PO Wasilewski's narrative as documented on § 87(2)(b)'s arrest report). § 87(2)(g)

§ 87(2)(b) The lieutenant stated that § 87(2)(b) was amongst a small crowd gathered immediately inside of the first (ground-level) door of 2295 Morris Avenue (see photograph #1, *enc. 12c*). From inside of his vehicle, Lt. McMahon stated that he observed § 87(2)(b) sell narcotics to § 87(2)(b). Without requesting backup, Lt. McMahon and PO Wasilewski exited their vehicle; Lt. McMahon approached § 87(2)(b) while PO Wasilewski approached § 87(2)(b). The officers intended to arrest both men. § 87(2)(b) and PO Wasilewski became involved in a struggle almost immediately; Lt. McMahon stated that this occurred in the foyer hallway, near the front entrance to the building. Sgt. Watson, PO Zerafa and PO Reid all stated that when they arrived at the location, the struggle was going on in the lobby of the building. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) As reported by a ground floor resident of 2295 Morris Avenue (see *investigative actions, enc. 30e-*), the front door of the building does not lock, and the second door consists only of a door frame as the actual door was removed some time prior to August 2003.

According to § 87(2)(b)'s version of events, his interaction with the officers began without incident. § 87(2)(b) stated that he did not become upset or agitated with the officers until later, when he was struck multiple times and was reportedly made to remove his pants and boxer shorts. § 87(2)(b) stated that because he was familiar with the officers, he allowed PO Wasilewski to search him – and even permitted a search such that the officer shone a flashlight against his bare skin – during the initial stages of their interaction. He stated that after no contraband was found on his person, either Capt. DeEntremont or Lt. McMahon requested that he be brought further back into the lobby to be searched again. Though her statement is very limited, witness § 87(2)(b) described to IAB that a similar encounter had taken place, where § 87(2)(b) was "walking out of the building when officers pushed him back and checked his ass."

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) asserted that he was stopped while exiting 2295 Morris Avenue not because he had been involved in illegal behavior inside, but because the officers recognized him and knew him to have a history of narcotics possession and sales. Seven months prior to this incident, Lt. McMahon and PO Wasilewski stopped § 87(2)(b)

§ 87(2)(b) at the corner of Morris Avenue and 183rd Street (2295 Morris Avenue is positioned on this corner) and arrested him for § 87(2)(b) (*enc. 28b-c*). § 87(2)(b) stated that, based on these encounters, he and the officers were on familiar, even on “casual,” terms. PO Wasilewski made a total of 135 arrests between January 2003 and February 2004. Of these arrests, PO Wasilewski effected 20 narcotics arrests on Morris Avenue and/or 183rd Street (*enc. 29a-i*). Both Lt. McMahon and PO Zerafa indicated that PO Wasilewski had acknowledged having a prior history with § 87(2)(b). Lt. McMahon also acknowledged that he (personally) had had interaction with § 87(2)(b) prior to August 22, 2003.

§ 87(2)(g)

In his discussion of New York State search and seizure law, Barry Kamins cites *People v. Johnson* (64 NY2d 617 (1984)) when positing that an individual’s previous arrest history and his presence in a high crime area does not create reasonable suspicion such that an officer is permitted to stop the individual. Kamins writes, “even if the defendant had been arrested by the officer on several previous occasions, that fact, combined with innocuous behavior in a high crime area, will still not generate a reasonable suspicion (*enc. 2a*).” § 87(2)(g)

§ 87(2)(g)

Allegation b: Lieutenant Paul McMahon supervised the search of § 87(2)(b)

§ 87(2)(b) stated that after PO Wasilewski grabbed and escorted him to the top of the foyer steps, the officer searched him. § 87(2)(b) recalled: “he took money out of my pocket, keys, wallet, my belt. He lifted up my shirt. He went through my pants – he pulled my shorts and put the flashlight in front of my pants. Looked in the back [of my shorts]. Checked my shoes, my feet.” In shining a flashlight down § 87(2)(b)’s pants, PO Wasilewski had a clear view of § 87(2)(b)’s genitals and bare buttocks. It was during this time that PO Wasilewski requested that § 87(2)(b) squat; § 87(2)(b) complied and squatted two to three times. Nothing illegal was found on his person. During this time either Capt. DeEntremont or Lt. McMahon ordered PO Wasilewski to “bring him § 87(2)(b) back” into the lobby of the building; he was then allegedly strip-searched (*as will be discussed below*).

Capt. DeEntremont denied having been present for the initial stages of § 87(2)(b)’s interaction with officers (stating that he arrived once the struggle had started) and stated that he was unaware whether a search occurred prior to his arrival at the location. Lt. McMahon also denied having seen such a search, as he stated that while PO Wasilewski interacted with § 87(2)(b) in the foyer, he was dealing with § 87(2)(b) near the mailboxes. However, both Sgt. Watson and PO Reid stated that the prisoners were positioned in the front of the hallway, immediately to the left of the foyer stair’s landing (*see PO Reid’s mark on diagram, enc. 25d*). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

██████████ DCT case of *PD v. White (enc. 1a-e)*. In this case, Assistant Deputy Commissioner Sarner found an officer guilty of conducting an improper frisk after stopping an individual whom the officer had previously arrested. Commissioner Sarner faulted the officer's tenuous justification for having stopped the subject, and ruled that his supplied justification did not "pass muster" with NYPD Patrol Guide Procedure 212-11 (*enc. 3c-e*) regarding the factors needed to prompt a legal frisk and/or search. § 87(2)(g)

§ 87(2)(g)

Allegation c: Captain Paul DeEntremont supervised the strip-search of § 87(2)(b) at 2295 Morris Avenue.

§ 87(2)(b) stated that after he was searched for the first time and no contraband was found on his person, he was lead into the lobby of 2295 Morris Avenue and made to remove his shoes, shorts and boxer shorts. Under PO Wasilewski's order (and Capt. DeEntremont's supervision), § 87(2)(b) stood with his palms pressed against the wall. Per the officer's request, § 87(2)(b) squatted multiple times while PO Wasilewski shone a flashlight onto his buttocks. While § 87(2)(b) refused to comment to the CCRB regarding where he was secreting narcotics (*see voucher, enc. 27g*), and none of the officers recalled the circumstances by which the narcotics were recovered, it is likely that the narcotics were recovered at this time. § 87(2)(b) stated that it was after he stood up from squatting that an officer struck him in his lower back (*as will be discussed below*).

Officers categorically denied that a strip-search was conducted. Despite this, a number of officers recalled that § 87(2)(b)'s pants were dislodged while he was present inside of 2295 Morris Avenue. While Sgt. Watson and PO Reid indicated that they never saw § 87(2)(b)'s pants positioned below his waist/hip level, Capt. DeEntremont, PO Zerafa and Lt. McMahon indicated otherwise. Capt. DeEntremont recalled, § 87(2)(b) [s] pants came down to the lower thigh area at one point in the struggle. He was wearing loose-waisted pants...He had boxers on." Capt. DeEntremont qualified that § 87(2)(b)'s pants were not intentionally pulled down, and that at no time were his boxer shorts pulled down or removed. He stated, "his pants came down during the altercation. No one was conducting a search." PO Zerafa's statement is similar, as he described that § 87(2)(b)'s pants "could have been pulled down maybe" during the struggle. PO Zerafa stated that he did not see § 87(2)(b) "naked or anything."

Lt. McMahon's statement regarding this alleged strip-search was more detailed. He stated that he had heard PO Wasilewski shouting that § 87(2)(b) was attempting to "stuff" or "cheek" his narcotics, in reference to his apparent attempts to secret the narcotics "in the crack of [his] rear end." Lt. McMahon recalled, "I know that when the search was done – first of all he doesn't wear tight-fitting jeans...in trying to do what he did (cheek it). I know that his boxers were up but his pants were kind of between his waist and his knees. When you say 'where'd he search' – we search anywhere that something could be hidden, as far as his clothing goes." Lt. McMahon stated that neither § 87(2)(b)'s pants nor his boxer shorts were purposefully lowered.

§ 87(2)(g)

Allegation h: Police Officer Matthew Reid used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation i: Officers threatened § 87(2)(b) with the use of force.

Allegation j: Officers made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) stated that once he was positioned on the lobby floor, either Capt. DeEntremont or Lt. McMahon stated, “see, why you fucking with me? I told you ‘don’t fuck with me.’ I’m gonna beat your ass.” As he lay on the ground, he stated that officers yelled, “I told you – I told you, monkey” as they “stomped” on his ankles. § 87(2)(b) supposed that the comment “I told you” was made in reference to the threats previously made about “beating his ass.” According to § 87(2)(b)’s statement, backup officers were present at the location during the time that he was called a “monkey.” § 87(2)(b) stated that because he was lying on the ground, covering his body with his hands, he was unable to discern which and how many of the officers addressed him by using such language; he felt that more than one officer made the comment.”

All of the officers categorically denied having threatened § 87(2)(b) or calling him a “monkey”; likewise, they all denied hearing another officer speak as such. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: